



# Memorandum

**TO:** TRANSPORTATION  
AND ENVIRONMENT COMMITTEE

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 16, 2010

Approved

Date

4/20/10

**COUNCIL DISTRICT:** Citywide

**SNI AREA:** All

**SUBJECT: CONSIDERATION OF POTENTIAL CHANGES TO SAN JOSÉ'S  
PRIVATE SECTOR GREEN BUILDING POLICY AND ORDINANCE TO  
ADDRESS NEW BUILDINGS, RENOVATIONS, ADDITIONS, AND  
CALIFORNIA STATE GREEN BUILDING CODE REQUIREMENTS**

## RECOMMENDATION

Direct staff to prepare draft revisions and updates to the *Private Sector Green Building Policy* (City Council Policy 6-32) and the *Ordinance to Establish Green Building Regulations for Private Development* and bring forward recommendations based on stakeholder input for Council adoption by Fall 2010 that include mandatory requirements for all new buildings.

- a. Move up phasing-in mandatory requirements for all new buildings from 2012 to January 2011.
- b. Defer phasing-in certification requirements for building additions from 2010 to 2013 or later.

## OUTCOME

Council adoption of a revised and updated *Private Sector Green Building Policy* (see Attachment 1 for current Policy) and updated *Ordinance to Establish Green Building Regulations for Private Development* (see Attachment 2 for current Ordinance) advance San José's Green Vision Goal No. 4 of building or retrofitting at least 50 million square feet of green buildings by 2022, and Green Vision goals related to energy and water efficiency and waste reduction. In addition, an updated Policy and Ordinance will help San José meet requirements to adopt the 2010 State of California Green Building Standards Code (CALGREEN) mandatory regulations into the City's municipal code.

By expanding the range of buildings subject to mandatory green building requirements to include all new buildings, staff's proposed revisions to San José's Policy and Ordinance will also help the City

achieve the greenhouse gas (GHG) emission reductions required under California Assembly Bill 32 – Global Warming Solutions Act.

## **EXECUTIVE SUMMARY**

Staff proposes to revise and update the *Private Sector Green Building Policy* (City Council Policy 6-32, adopted October 7, 2008) and the *Ordinance to Establish Green Building Regulations for Private Development* to include all new buildings regardless of size, which are not additions to existing buildings, to comply with mandatory provisions of the *2010 State of California Green Building Standards Code* (CALGREEN), scheduled to become effective in January 2011. The proposed policy and ordinance changes also require all new residential buildings to be certified by at least one of two specified third-party green building rating systems: the US Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) or Build It Green's (BIG) GreenPoint Rated. The certification requirements for nonresidential buildings that meet or exceed the size thresholds specified in the current Policy and Ordinance would change from 25,000 square feet or larger to 5,000 square feet or larger. The current Policy and Ordinance require certification and point levels in three categories: commercial and industrial (25,000 square feet and larger), residential high-rise, and other residential building types (ten units or more).

## **BACKGROUND**

The most recognized green building rating systems in California are the USGBC LEED program, which is internationally known and BIG "GreenPoint Rated" system, which is designed to be consistent with California State codes that apply to buildings. The City of San José is a member of both organizations and has adopted their respective systems as reference standards through the *Private Sector Green Building Policy* and the *Ordinance to Establish Green Building Regulations for Private Development*.

USGBC provides different rating categories for new construction ranging from single-family residences to mixed-use high-rises, commercial building shells and interiors, neighborhood development, and operation and maintenance of existing buildings. Higher levels of LEED certification (Certified, Silver, Gold, and Platinum) are awarded based on total credits earned. The process for LEED certification, as revised in 2009, includes submittal of documentation on project details to the Green Building Certification Institute (GBCI) for all commercial and institutional projects registered under any LEED Rating System, and to the USGBC for all other projects registered under a LEED Rating System. New construction certification is awarded after a project has been constructed and occupied to allow verification of construction materials and methods and building systems' operations including ongoing monitoring of building performance after initial occupancy. Existing building certification is awarded after a project has demonstrated achievement of performance standards throughout a chosen performance period of more than three months. LEED is expanding its focus on commissioning to assess LEED certified buildings periodically to maintain their LEED certified status. The City of San José is a member of USGBC.

Build It Green (BIG) is a professional non-profit membership organization whose mission is to promote healthy, energy- and resource-efficient buildings. BIG's focus is solely on residential construction. Its rating system has been developed specifically for California, and it is designed to tier off of California State codes. Local jurisdictions throughout the Bay Area use BIG as a reference standard for measuring green residential construction. A home can be considered "GreenPoint Rated" after achieving 50 points on a scale that ranges up to 200 points. The BIG system uses GreenPoint Raters to verify that point-earning green building measures are implemented during construction.

Existing residential buildings can also be rated through BIG. A GreenPoint Rater is an independent contractor, hired by the developer, who is audited by BIG, and who is authorized to submit to BIG paperwork and evidence of success in meeting BIG standards. BIG ultimately awards the point total to the project resulting in building certification shortly after project completion. The City of San José is a member of BIG, and City staff has contributed to development of the GreenPoint Rated system.

### **Evolution of San José's Green Building Policies and Ordinance**

San José is a leader in green building policy development and implementation. In March 2007, the City Council updated its Green Building Policy (City Council Policy No. 8-13, originally adopted in 2001) for City and Agency facilities that are 10,000 square feet or larger to attain, at a minimum, LEED Silver certification, and to encourage green building in the private sector.

On October 30, 2007, Council adopted San José's Green Vision, establishing ten ambitious goals to reduce the carbon footprint of the City of San José by more than 50 percent by 2022. The Green Vision is internationally recognized as a highly ambitious approach to regional sustainability. Goal No. 4 states that by 2022, 50 million square feet of buildings built or retrofitted in the City shall be "green". The City estimates that approximately two million square feet of municipal buildings will be certified green buildings within 15 years, which could achieve up to four percent of this goal.

The City Council adopted the current *Private Sector Green Building Policy* (City Council Policy 6-32) on October 7, 2008. Subsequently on June 23, 2009, Council adopted an implementing *Ordinance to Establish Green Building Regulations for Private Development*, which became effective on September 4, 2009. To achieve the remaining 96 percent of Green Vision Goal No. 4, as well as Green Vision Goals Nos. 1, 2, 3, 5, and 6, the formulation of the *Private Sector Green Building Policy* was guided by five principles:

1. Establish clear and consistent standards
2. Promote uniform regional policies
3. Raise awareness of green building practices
4. Balance incentives and mandated standards
5. Increase staff ability to facilitate green building projects

The current *Ordinance to Establish Green Building Regulations for Private Development* has mandatory requirements for projects of ten or more residential units, 25,000 square feet or more of nonresidential space, and high-rise buildings, as summarized in the chart below:

Applicable Project	Green Building Performance Requirements
Commercial/Industrial Tier 1 (<25,000 square feet)	Submit a completed LEED Checklist
Commercial/Industrial Tier 2 (≥25,000 square feet)	Certify at the LEED Silver Level or higher
Residential Tier 1 (<10 units)	Submit a completed GreenPoint Rated Checklist or LEED Checklist
Residential Tier 2 (≥10 units)	Certify at GreenPoint Rated (50 points) or LEED Certified or higher
High Rise Residential (75 feet or taller)	Certify at the LEED Certified Level or higher

Under the current Ordinance, applicants for new building projects involving fewer than ten residential units or less than 25,000 square feet of non-residential space are required to submit a complete GreenPoint Rated Checklist or LEED Checklist with their building permit application. Although all building projects are encouraged to use green building practices, the checklists are for educational purposes only.

To demonstrate compliance, the current Ordinance requires that either a LEED Project Review or GreenPoint Rated Certificate be submitted to the City. If the project fails to achieve the applicable green building standards by third party certification, the applicant can make a request to the Director of Planning, Building, and Code Enforcement to be granted an exception from the green building requirements; otherwise, the project will forfeit the green building deposit. The refundable deposit amount is currently 30 cents per square foot, up to a maximum single deposit of \$30,000 per building or shell permit. The intent of the deposit is to encourage following through with the Green Building Certification process.

### **California State and Santa Clara County Context**

#### ***AB 32 California Warming Solutions Act of 2006***

In 2006, the State of California adopted AB 32, which requires a reduction in greenhouse gas (GHG) emissions throughout the state to 1990 levels by 2020 and further reduction to 80 percent below 1990 levels by 2050. According to the California Air Resources Board's draft scoping plan for AB 32 (<http://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>), buildings are the second largest contributor to California's greenhouse gas emissions. In San José, the built environment contributed 53% of greenhouse gas emissions in the baseline year of 2005.

#### ***State of California Green Building Standards Code Adoption***

In January 2010, the State adopted the 2010 Green Building Standards Code (CALGREEN) with mandatory green building requirements becoming effective in 2011 for all new buildings of any size that require a building permit — additions and remodels of existing buildings are not subject to the mandatory CALGREEN requirements. The CALGREEN Code is the first statewide green building standards code in the United States, and the mandatory requirements are scheduled to start taking

effect in January 2011, with some water efficiency measures effective by July 2011. More ambitious voluntary tiers, identified as Tier 1 and Tier 2, to achieve greater reductions in GHGs, energy and water use, and volatile organic compounds (VOCs), are included in CALGREEN as additional options for adoption by local authorities. CALGREEN's mandatory requirements are consistent with and complement the requirements of the San Francisco Bay Regional Water Quality Control Board's recently issued Municipal Regional Stormwater NPDES Permit as implemented through *San José's City Council Policy 8-14 Post-Construction Hydromodification Management* and *City Council Policy 6-29 Post-Construction Urban Runoff Management*. CALGREEN is also consistent with the State Department of Water Resources Water Efficient Landscape Ordinance requirements.

Among its mandatory provisions, the 2010 CALGREEN Code requires:

- 20 percent mandatory reduction in indoor water use, with voluntary goal standards for 30, 35, and 40 percent reductions;
- Separate water meters for nonresidential buildings' indoor and outdoor water use, with a requirement for moisture-sensing irrigation systems for larger landscape projects;
- Diversion of at least 50 percent of construction waste from landfills, increasing voluntarily to 65 and 75 percent for new homes and 80 percent for commercial projects;
- Mandatory inspections of energy systems for nonresidential buildings larger than 10,000 square feet to confirm they are working at their maximum capacity per their design efficiencies; Low-pollutant-emitting interior finish materials such as paints, carpet, vinyl flooring and particle board.

#### ***Other Cities in California and the Santa Clara County Cities Association (SCCCA)***

According to the California Attorney General's office, as of September 22, 2009, more than 30 cities in California had adopted green building ordinances for private-sector development (Attachment 3). Just as with the City of San José, these other jurisdictions have to comply with the mandatory requirements of CALGREEN by 2011, and they may have to revise their ordinances accordingly.

In April 2008, the City of San José was one of 15 cities in Santa Clara County to adopt the Santa Clara County Cities Association (SCCCA) recommendations for green building standards including the concept of phasing in requirements for additional categories of buildings over several years. San José is continuing to collaborate with the SCCCA in developing recommendations to promote regional consistency that "reaches" beyond the mandatory CALGREEN requirements to demonstrate leadership in green building. Members of SCCCA are involved in a Green Building Collaborative (GBC) that has agreed on the following principles for determining green building requirements for cities in the GBC:

- Larger projects have a greater environmental impact and should therefore be subject to greener rules.
- It is easier to build a new building green than it is to retrofit/remodel an existing building to become green.

- Permit valuation, square feet and floor area ratio can be considered in determining threshold criteria for phasing in green building requirements.
- For remodels, square footage, permit valuation and project scope, defined by the number of building systems touched by the remodel, can be considered in determining threshold criteria.

A SCCCA meeting to address how best to integrate 2010 CALGREEN with third party certification requirements occurred on April 15, 2010, and City of San José staff participated. There were also representatives from other cities in Santa Clara County, businesses, construction trades, and BIG and LEED. The group agreed that:

1. SCCCA guiding principles should be reviewed and possibly amended;
2. A future phase of green building implementation should be considered for existing buildings because they are the largest category of development;
3. Staff training and additional public outreach is needed now; and
4. Analysis and guidance is necessary to integrate LEED certification effectively with CALGREEN compliance.

The general consensus was that many CALGREEN mandatory requirements do not contribute to LEED certification prerequisites or points, and that many LEED Certified and LEED Silver prerequisites are not achieved by compliance with CALGREEN mandatory requirements or voluntary Tiers. At least one city is proposing to revise its requirements to achieve LEED Silver-equivalent measures through the city's own inhouse reviews, inspections, and approvals. There was also agreement among the attendees that new nonresidential development smaller than 5,000 square feet in size could face challenges in obtaining LEED certification cost-effectively, particularly now that new development will need to comply with CALGREEN mandatory requirements. A representative from BIG confirmed that the organization is working on updating its GreenPoint Rated criteria and guidance to be compatible with, and tier off of the new State code requirements, and BIG anticipates completing this effort by summer. A representative from USGBC stated that LEED guidance or revisions to address compatibility with CALGREEN are being considered by USGBC, but this is a significant undertaking given all the building types and rating systems that LEED covers, and, therefore, fleshing out and resolving all the issues could take them some time.

### **Phasing of Future Policy Requirements**

San Jose's original approach to green building requirements considered a phased implementation. The current Policy established standards through 2010 for new buildings. Future phases would increase the performance requirements for new buildings, apply requirements to building additions, and finally apply to the retrofits of existing buildings. The phased approach was intended to accommodate growth in the green building industry and align performance standards with the increasing availability of green building technology, materials, and rating resources.

### **Previous Council Direction**

When Council adopted the current *Private Sector Green Building Policy* in 2008, Council decided not to adopt staff's recommendation to phase in performance levels for lower-size thresholds of new buildings by 2012. Instead, Council directed that staff return to Council in the summer of 2011 with:

- (1) an evaluation of the progress and implementation to date of the Green Building Policy
- (2) a recommendation for appropriate green building performance levels to include in a future, amended Policy.

The evaluation would include an assessment of the marketplace, identification of any new State requirements, and any other relevant data.

### **Implementation of Current Policy and Ordinance**

As of March 31, 2010, no building permit applications requiring third party certification per the *Ordinance to Establish Green Building Regulations for Private Development* have been submitted to the City since the Ordinance went into effect in September 2009. Consequently, there is a lack of data to review regarding the effectiveness of the Policy and Ordinance. Despite this situation, the new State-mandated requirements for green buildings adopted in January 2010 become effective starting in January 2011, so revisions to the current Policy and Ordinance will need to be adopted by Council in Fall 2010 to comply with State codes. Staff's proposed changes to the current Policy and Ordinance are intended to address these State requirements while also providing the City more opportunities to meet AB 32 requirements for reduction in GHGs by 2020.

## **ANALYSIS**

### **Reason for Proposing Changes to the Policy and the Ordinance**

Staff recommends revising the *Private Sector Green Building Policy and Ordinance to Establish Green Building Regulations for Private Development* in Fall 2010 to address the State's newly adopted 2010 CALGREEN provisions. Based on Committee direction, staff would conduct outreach and bring back specific revisions for Committee and Council consideration. These revisions would also create more opportunities to meet AB 32 requirements and Green Vision Goals Nos. 1, 2, 3, 4, 5, and 6 through measures that are consistent with other cities in Santa Clara County.

### **Suggested Revisions**

Staff's suggested revisions to the Policy and Ordinance are described below:

- Establish mandatory provisions for:
  - All new buildings that require a building permit on sites that do not have existing development (i.e., vacant or completely redeveloped sites) to meet mandatory CALGREEN requirements
  - All new residential buildings to obtain third party certification — either BIG or LEED
- Change the size thresholds in the current Policy and Ordinance for all new nonresidential buildings from at least 25,000 square feet to 5,000 square feet or larger for obtaining LEED Silver or higher.
- Require building additions, retrofits, and other existing buildings requiring a building permit to complete and submit a BIG or LEED checklist for educational and data-gathering purposes.

- By the date that CALGREEN Building Code mandatory requirements are updated to apply to building additions and retrofits, then BIG or LEED certification would also become mandatory for these project types to maintain the principle of reaching beyond code requirements for leadership in green building leadership.

### Proposed Standards and Other Refinements

The standards proposed by staff are summarized in the chart below, and would apply to all building permit applications submitted after December 15, 2010:

Applicable Project	Green Building Performance Requirements
Commercial/Industrial — new building not part of an addition or retrofit to any existing building ( $\geq 5,000$ square feet)	Certify at the LEED Silver Level or higher
Residential — any size new building not part of an addition or retrofit to any existing building	Certify at GreenPoint Rated (50 points) or LEED Certified or higher
High Rise Residential (75 feet or taller) — any size new building not part of an addition or retrofit	Certify at the LEED Certified Level or higher
Commercial/Industrial — any size building addition or retrofit that requires a building permit and new building not part of an addition or retrofit to any existing building ( $< 5,000$ square feet)	Submit a completed LEED Checklist
Residential — any size building addition or retrofit that requires a building permit	Submit a completed GreenPoint Rated Checklist or LEED Checklist
High Rise Residential — any size building addition or retrofit that requires a building permit (75 feet or taller)	Submit a completed LEED Checklist

1. **Minimization of overlapping inspections and certifications** — To minimize review cycles, processing time, inspections, and documentation, staff recommends exploring ways to coordinate compliance with overlapping requirements needed for BIG or LEED certification that are also mandatory for CALGREEN.
2. **Verification of compliance provided to City of San José** — Staff recommends maintaining the deposit program to ensure compliance with third party certification requirements. By submitting a deposit, there is no additional review time or fee. However, compliance with applicable mandatory CALGREEN requirements will need to be completed prior to issuance of a certificate of occupancy.

### California Energy Commission Requirements

The California Energy Commission (CEC) requires any local jurisdiction that adopts standards that result in higher energy efficiency levels than required by the State of California's Energy Code (Title



24) provide findings that demonstrate that the jurisdiction's decision to adopt these local standards was based on an understanding of the construction cost-implications for the increased energy-efficiency standards. Buildings designed to achieve green building standards of LEED and GreenPoint Rated have been shown to be ten to fifteen percent more energy-efficient than required by Title 24.

For the current Policy and Ordinance, the Department commissioned a building energy consultant to perform an analysis of the increased costs related to constructing buildings to achieve higher energy-efficiency resulting from the City's currently adopted green building performance standards. The report concluded that the average costs of energy upgrades to achieve the green building performance standards for a single-family detached residence, ranges from \$0.57 to \$1.35 per square foot. The energy cost savings resulting from the efficiency upgrades allow for a payback of the initial investment within an average of 10.7 to 20.4 years. Given that a single-family detached residence is often used for 50 or more years before it is replaced, the return on investment during approximately 1/5 to 1/3 of the building's life cycle can be justified.

The average costs of energy upgrades to achieve the green building performance standards for a high-rise building ranges from \$0.77 to \$0.87 per square foot. The energy cost savings resulting from the efficiency upgrades allow for a payback of the initial investment within an average of 5.1 to 11.1 years.

The average costs of energy upgrades to achieve the green building performance standards for a non-residential midsize building ranges from \$0.52 to \$1.44 per square foot. The energy cost savings resulting from the efficiency upgrades allow for a payback of the initial investment within an average of 5.1 to 10.8 years.

The average costs of energy upgrades to achieve the green building performance standards for a non-residential large building ranges from \$0.74 to \$0.82 per square foot. The energy cost savings resulting from the efficiency upgrades allow for a payback of the initial investment within an average of 6.4 to 9.6 years.

## **COST IMPLICATIONS**

Staff's proposed approach to the changes to the Policy and Ordinance are intended to minimize processing time delays and new development fees by having a third party verify project compliance with the applicable green building standards. Items that may influence processing times and fees include training; the review of green building documentation, inspections, and record-keeping; and the on-going monitoring and verification of operations and maintenance of green building measures as required by CALGREEN.

The Department of Planning, Building and Code Enforcement is evaluating whether additional funds are needed to support implementation of the proposed changes to the Policy and Ordinance, and implementation of CALGREEN. Staff will report back to the Council in Fall 2010 on the status of funding resources to implement the proposed changes.

## **EVALUATION AND FOLLOW-UP**

After confirming direction from the T&E Committee on proposed Policy and Ordinance changes, staff will present the proposed changes to stakeholders for input between now and Fall 2010. Staff intends to bring the proposed revised Policy and Ordinance to Planning Commission by October 2010 and to the full Council by November 2010. Staff recommends that future phasing-in of requirements and incentives for retrofits of existing buildings occur as soon as there are more Policy implementation data and staff resources available to make implementation practical.

A progress report on the implementation of the *Private Sector Green Building Policy* to City Council will continue to be provided as part of the annual Green Vision report.

## **POLICY ALTERNATIVES**

*Alternative No. 1: In addition to the staff proposed requirements for new construction, require that existing buildings (all projects or those of a certain size or land use) be required to submit an energy usage audit of the existing building. This would be done for the purpose of identifying needed improvements and to disclose this information to prospective buyers, tenants, and lenders during the sale, lease, or financing of properties. (Additional staff research and outreach is needed to identify appropriate rating system and procedures.)*

### **Pros:**

- Provides additional public education and data to track achievement of Green Vision goals.
- Through San José's partnership with PG&E, free assistance is available for energy audits of existing buildings.
- May reduce energy and water consumption and achieve other green building benefits.
- Already required by many other jurisdictions in the Bay Area and nationwide including San Francisco, Berkeley, and Seattle.

### **Cons:**

- The phasing-in of requirements for existing buildings was originally presented to Council to occur in the future after phasing-in requirements for all new buildings and building additions.
- The tracking and management of audits for existing buildings could create demands on staff and other resources for which there is no identified funding at this time.
- There are not a lot of data from implementation of the current Policy and Ordinance to-date to inform how best to design a program of mandatory energy audits for existing buildings.

**Reason for not recommending:** Lack of data and resources at this time to implement mandatory energy audits for existing buildings in San José would make this alternative difficult to enforce effectively. Staff recommends that we defer consideration of this option to a future phase after we explore how to encourage existing buildings to improve their energy efficiency at time of sale.

*Alternative No. 2: Adopt as mandatory requirements CALGREEN's Tier One or Tier Two. All new buildings would be required to achieve either Tier One or Tier Two in CALGREEN instead of obtaining BIG or LEED certification.*

**Pros:**

- Would be done in-house, thereby minimizing the number of people involved in reviewing the projects.

**Cons:**

- Would deviate from the current policy direction to-date mutually agreed upon by SCCCA.
- Would create additional in-house staffing and training demands.
- CALGREEN Tier One and Tier Two are new and untested.
- May not provide standards that help meet AB 32 and San José GHG reduction targets adopted by Council.

**Reason for not recommending:** This approach is untested, and the third party certification approach (currently in place) is consistent with that of other jurisdictions in the County.

*Alternative No. 3: Implement third party certification for building additions per previous Council direction provided when current Policy was adopted in 2008. Building additions exceeding size thresholds (to be specified) would need to obtain LEED or BIG certification. CALGREEN mandatory requirements for all new buildings would still become effective starting in 2011.*

**Pros:**

- This approach is consistent with previous Council direction for phasing in green building requirements, is in agreement with the SCCCA approach, and was included in previous public outreach done in 2008.

**Cons:**

- Combined with CALGREEN, a much larger category of projects than originally anticipated would require some level of green building documentation by 2011. Due to the lack of development activity since the Ordinance was implemented in September 2009, little data exist to inform how best to define requirements for building additions. The lack of data also inhibits a determination of the resources needed to implement this approach.

**PUBLIC OUTREACH/INTEREST**



**Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)



**Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)

- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

When formulating the existing Policy and Ordinance, staff collected input from industry stakeholders including developers, architects, engineers, contractors, building trades groups, affordable housing groups, and environmental groups.

More recently, staff presented the CALGREEN requirements and potential changes to the Policy and Ordinance to the PBCE Developers Roundtable on February 26, 2010. The following comments and concerns were raised at that meeting:

- No new fees, no new review cycles, and no new inspections
- Minimize the number of regulators and certifiers “touching” the project
- Do not impact issuance of building permits or certificates of occupancy
- Adopt CALGREEN, and then let the marketplace determine how far to reach beyond code
- Let developers choose the most applicable rating system
- Address the lack of availability of green building products such as paints, carpets, and lumber
- Provide predictability and consistency across jurisdictions
- Create incentives such as expedited building plan check for green projects
- Learn from Step 1 (third party certification for larger new buildings) of the Phase implementation prior to transitioning to Step 2 (third party certification for smaller new buildings).

The current Policy and Ordinance address these comments, as does the coordinated approach to green building in Santa Clara County. As stated earlier, no projects have been submitted since the ordinance went into effect, thereby limiting the City’s ability to learn from specific examples.

The concerns will also be considered in the preparation of the revised Policy and Ordinance.

### **Planned Outreach through Fall 2010**

The proposed changes to the Policy and Ordinance potentially impact the same stakeholder groups as the current Policy and Ordinance, but the changes also will more directly affect anyone intending to build a new single-family house in San José. Today, an applicant who wants to build a single-family house must submit a checklist to the City, but is not required to implement green building elements into their project. When CALGREEN becomes effective, green building measures will be mandatory for all new buildings including single-family houses. Given this context, staff is continuing outreach to the stakeholder groups mentioned above as well as expanding outreach to all residents in San José through a combination of web page updates, e-mail blasts, focus group meetings, public community workshops, and other cost-effective media.

## **COORDINATION**

Preparation of the proposed Policy and Ordinance revisions and this memorandum were coordinated with the City Attorney's Office, City Manager's Office, Environmental Services Department, Housing Department, the Office of Economic Development, Public Works, and the Redevelopment Agency.

## **FISCAL/POLICY ALIGNMENT**

The proposed Policy and Ordinance revisions are consistent with the City of San José Green Vision and with San José 2020 General Plan policies regarding sustainability and protection of energy, water, and other natural resources. Additionally, green building practices help minimize greenhouse gasses in conformance with AB 32.

## **CEQA**

The proposed Policy and Ordinance revisions are categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15308 of the CEQA guidelines.

/s/

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Joseph Horwedel at 408/535-7900.

- Attachment 1: San José's current *Private Sector Green Building Policy*
- Attachment 2: San José's current *Ordinance to Establish Green Building Regulations for Private Development*
- Attachment 3: California Attorney General's List of Local Government Green Building Ordinances in California